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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/623,208	08/29/2000	MICHEL BAYLOT	33900-73PUS	9933
7590	02/17/2005		EXAMINER	
Martin B Pavane Cohen Pontani Lieberman & Pavane 551 Fifth Avenue Suite 1210 New York, NY 10176			MCKINNON, TERRELL L	
		ART UNIT	PAPER NUMBER	
		3743	/	
DATE MAILED: 02/17/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.	BAYLOT ET AL.	
09/623,208		
Examiner Terrell L Mckinnon	Art Unit 3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 25 June 2002.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4,6,10-12,14,15,26,29 and 30 is/are rejected.

7) Claim(s) 5,7-9,13,16-25,27 and 28 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 29 August 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other:

**DETAILED ACTION**

Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

The indicated allowability of claims 1-30 is withdrawn in view of the newly discovered reference to Ohrn (U.S. 6,000,438). Rejections based on the newly cited reference will follow.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-4, 6, 11, 12, 26 and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohrn (U.S. 6,000,438).

Ohrn discloses a phase change insulation for subsea flowlines comprising:

- a device for insulating at least one underwater pipe (10);
- an insulating coating (18) surrounds the pipe (10) and a protective envelope (14);
- the insulating coating (18) comprises a virtually incompressible liquid/solid phase change material with a melting temperature higher (between 20 and 80 degrees Celsius) than that of the medium surrounding the pipe, and less than that of the effluents circulating in the pipe;
- the use of designing the thermal cell to allow for expansion and contraction of the liquid as the temperature changes;
- the protective envelope is resistant, deformable and ensures containment about the insulating coating and support for the pipe; and
- the insulating coating comprises an light, cellular or fibrous absorbent matrix surrounding the outside of the pipe preferably nearest its outer surface and impregnated with the liquid/solid phase change material.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 14, 15 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ohrn (U.S. 6,000,438) in view of Watkins (U.S. 6,058,979).

Ohrn discloses all of the claimed limitations from above except for the protective envelope being made of thermoplastic material.

3. However, Watkins teaches the use of a deep-sea insulated pipeline including a protective cover made of a thermoplastic material (column 4, lines 8-11).

Given the teachings of Watkins, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the outer protective pipe of Ohrn with a protective envelope being made of thermoplastic material.

Doing so would provide a protective cover that's flexible hard and tough.

### ***Allowable Subject Matter***

Claims 5, 7-9, 13, 16-25, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell L Mckinnon whose telephone number is 703-305-

0059. The examiner can normally be reached on Monday -Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 305-4456. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7764 for regular communications and 703-308-7764 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.



Terrell L Mckinnon  
Examiner  
Art Unit 3743  
December 16, 2002